

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

SYMYX TECHNOLOGIES, INC., a
Delaware Corporation,

Plaintiff,

vs.

INEMATIX CORPORATION, a
California corporation,

Defendant.

INEMATIX CORPORATION, a
California corporation,

Counterclaimant,

vs.

SYMYX TECHNOLOGIES, INC., a
Delaware Corporation;
INTERMOLECULAR, INC., a Delaware
Corporation; ISY GOLDWASSER, an
individual; and DAVID LAZOVSKY, an
individual,

Counterclaim Respondents.

Case No. C 06-03276 MHP

**~~[PROPOSED]~~ ORDER DISMISSING
STATE LAW TRADE SECRET CLAIMS**

Location: Courtroom 15, 18th Floor
Judge: Hon. Marilyn Hall Patel

On July 25, 2006, the Court held a telephonic Case Management Conference in the above-referenced matter. Present on the call were: (1) Claude M. Stern and Brian C. Cannon on behalf of Plaintiff and Counterdefendant Symyx Technologies, Inc. ("Symyx") and Counterdefendant Isy Goldwasser; (2) Ronald S. Katz and Christopher L. Wanger on behalf of Defendant and Counterclaimant Intematix Corporation ("Intematix"), and (3) Matthew Rawlinson on behalf of Counterdefendants Intermolecular, Inc. ("Intermolecular") and David Lazovsky.

Having considered the files and records of the case, and the arguments presented during the Conference, the Court now finds that all non-patent claims and counterclaims in this matter should be tried in the action pending in the California Superior Court for Alameda County entitled *Intematix Corporation v. Symyx Technologies, Inc.* (Alameda County Sup. Ct. Case No. RG 06273044) (the "State Court Action"). Accordingly, IT IS HEREBY ORDERED that:

- (1) The Sixth Claim for Relief for a Declaratory Judgment Regarding Trade Secret Misappropriation in the First Amended Complaint of Symyx is hereby dismissed without prejudice. This dismissal without prejudice is made without an adjudication on the merits and shall have no res judicata or collateral estoppel effect on the claim.
- (2) Count One (Trade Secret Misappropriation under Civil Code Section 3426 et seq. against all Counterdefendants), Count Two (Unfair Competition under Business & Professions Code Section 17200 against all Counterdefendants), and Count Three (Common Law Misappropriation and Unfair Competition against all Counterdefendants) of Intematix's Counterclaim are hereby dismissed without prejudice. This dismissal without prejudice is made without an adjudication on the merits and shall have no res judicata or collateral estoppel effect on the claims.
- (3) Intematix Corporation's Motion to Shorten the Time By Which It Can Conduct Discovery on its Trade Secret Counterclaims, currently listed as Docket No. 14, is hereby moot.
- (4) Any documents or other information produced or disclosed in this action shall be considered produced in the State Court Action, and all documents or other

1 information produced or disclosed in the State Court Action shall be considered
2 produced in this action. The Court makes no determination of the relevance or
3 admissibility of any such documents or information in either action.

- 4 (5) The initial Case Management Conference previously scheduled in this matter shall
5 remain on calendar for Monday, October 2, 2006 at 4:00 p.m.

6 IT IS SO ORDERED.

7
8 Dated: July 27 _____, 2006

